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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,787	01/17/2006	Dirk Andritter	016906-0461	3325

22428 7590 10/31/2007  
FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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10/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/564,787

Applicant(s)

ANDRITTER, DIRK

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/17/06</u> | 6) <input type="checkbox"/> Other: _____  |

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This is the first Office Action for the serial number 10/564,787, FIXING MEANS FOR AN OIL COOLER, filed on 1/17/06.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-3, 5 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the word "means" is preceded by the word(s) "latching" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 2, line 4, "oil cooler" is indefinite because it cites combination/subcombination problem. "Oil cooler" is not being positively cited in preamble of claim 1.

Claim 5 recites the limitation "the spring store" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7, line 2, "the oil cooler receiving element" is indefinite because it cites combination/subcombination problem. "The oil cooler receiving element" is not being positively cited in preamble of claim 1.

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Claim 8, line 2, "the oil cooler" is indefinite because it cites combination/subcombination problem. "The oil cooler" is not being positively cited in preamble of claim 1.

Claim 10 recites the limitation "the vehicle side" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the fixings" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11, line 2, "the oil cooler receiving element" is indefinite because it cites combination/subcombination problem. "The oil cooler receiving element" is not being positively cited in preamble of claim 1.

Claim 3 is rejected as depending on rejected claim 2 and claim 9 is rejected as depending on rejected claim 7.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 5,407,161 to Mulkeran.

Mulkeran teaches a fixing device comprising a latching connection (11) between receiving element (10) and cooler (32). The latching connection comprises a latching means (29-30) engages a latching receiving element (12 and 25). The latching means and latching

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receiving element forms a clip connection. The receiving element comprises U-shaped and latching connection forming of limbs (25-26 and 29) of U-shaped.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulkeran in view of US Patent # 5,632,332 to Hanafusa.

Mulkeran teaches the device but fails to teach spring. Hanafusa teaches the device is made of plastic (column 7, lines 13-17), since plastic is elastic which is considered as spring. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Mulkeran's device with plastic as taught by Hanafusa to reduce cost in manufacturing process.

Regarding to claim 6, Mulkeran in view of Hanafusa teach spring but fails to teach spring having dovetailed structure. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the spring with dovetailed structure to provide designer's preference for the shape of spring.

***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 4,362,284 to Bolante

US Patent # 7,117,927 to Kent et al.

US Patent # 2,863,202 to Hanna

US Patent # 5,205,349 to Nagao et al.

Bolante, Kent et al., Hanna and Nagao et al. teach clip for mounting on an object.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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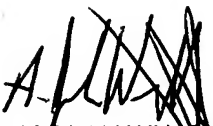
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Alfred Joseph Wujciak III

Primary Examiner

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10/25/07

  
A. JOSEPH WUJCIAK III  
PRIMARY EXAMINER  
TECHNOLOGY CENTER